

Supreme Court of Kentucky

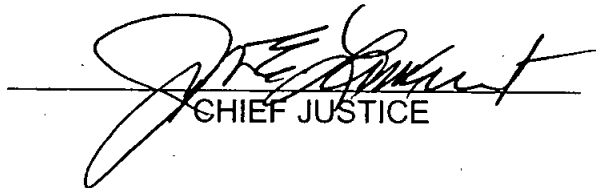
ORDER

IN RE: ORDER APPROVING AMENDMENTS TO THE LOCAL RULES OF PRACTICE FOR THE 24TH JUDICIAL CIRCUIT, JOHNSON, LAWRENCE AND MARTIN CIRCUIT COURTS

Upon recommendation of the Judges of the 24th Judicial Circuit, Johnson, Lawrence and Martin Circuit Courts, and being otherwise sufficiently advised,

The amendments to the Local Rules of practice for the Johnson, Lawrence and Martin Circuit Courts are hereby approved. This order shall be effective as of the date of this Order, and shall remain in effect until further orders of this court.

Entered this the 13 day of August, 2007.


CHIEF JUSTICE

**LOCAL COURT RULES for
PRACTICE AND PROCEDURE**

TWENTY-FOURTH JUDICIAL CIRCUIT

**JOHNSON CIRCUIT COURT
LAWRENCE CIRCUIT COURT
MARTIN CIRCUIT COURT**

***HONORABLE JOHN DAVID PRESTON
CIRCUIT JUDGE***

**JOHNSON COUNTY JUDICIAL CENTER
908 Third Street
Paintsville, Kentucky
Phone: 606-297-9586
Fax: 606-297-9588**

**LAWRENCE COUNTY COURTHOUSE
122 Main Cross Street
Louisa, Kentucky 41230
Phone: 606-638-4344**

**MARTIN COUNTY COURTHOUSE
Second Floor
Court Street
Inez, Kentucky 41224
Phone: 606-298-7598**

**JOHNSON CIRCUIT CLERK: VICKI GRACE RICE
LAWRENCE CIRCUIT CLERK: JODI PARSLEY
MARTIN CIRCUIT CLERK: JACK H. HORN**

RULE 1

APPLICABILITY AND DISTRIBUTION OF LOCAL RULES

1.1 These Court Practice and Procedure Rules, Twenty-Fourth Judicial Circuit, Kentucky Rules of Civil or Criminal Procedure, and other law, insofar as applicable shall govern civil and criminal proceedings in the Twenty-Fourth Judicial Circuit, unless the same conflict with any statute or other law of the United States or the Commonwealth of Kentucky, or rule or order of the Supreme Court, of the Commonwealth of Kentucky, at any time legally adopted; in which event any such statute, law, rule, or order shall at all times prevail. These Rules shall be cited as "LRC-24-_____."

1.2 These Rules supersede all previous Local Rules of Practice and Procedure in the Twenty-Fourth Judicial Circuit Civil and Criminal Divisions. It is recognized that these Rules are not so complete so as to govern every situation that may arise, and, in the event that said Rules do not apply to a specific situation, the presiding Judge will act in his/her discretion with respect thereto.

1.3 These Rules and any amendments to them hereafter made shall be filed with the Clerk of the Circuit Court of each county in the Twenty-Fourth Judicial Circuit. The Circuit Clerk of each county shall distribute a copy of these Rules and any subsequent amendments thereto each member of that county's bar. The Circuit Clerks shall maintain a supply of printed Rules, to be provided upon request.

1.4 In the event of a conflict between the provisions of these Court Practice and Procedure Rules and the Family Court Rules, the Rules of the Court in which the case has been filed are controlling.

RULE 2

JURY TERMS AND CONTACT WITH JURORS

2.1 All court sessions in each county, including motion days and jury trials, shall commence at 9:00 A.M., unless otherwise set forth within these Rules or by court order as to specific hearing. Counsel and their clients shall be present by 8:30 A.M. on the first day of any jury trial.

2.2 Petit jury sessions shall be conducted in Johnson County during the months of JANUARY, APRIL, JULY, and OCTOBER.

2.3 Petit jury sessions shall be conducted in Lawrence County during the months of MARCH, JUNE, and NOVEMBER.

2.4 Petit jury sessions shall be conducted in Martin County during the months of FEBRUARY, MAY, AND SEPTEMBER.

2.5 Petit jury sessions in AUGUST AND DECEMBER will held in the county or counties as determined by the Court.

2.6 Johnson, Lawrence and Martin Circuit Courts will be Courts of continuous session. A jury will be available in each of the counties at all times.

2.7 Sections of the Courtroom shall be marked or otherwise designated "Jurors Only" and shall be used by all members of the Jury Panel. No other persons shall be permitted to sit in areas so marked or designated as juror seating.

2.8 Except as provided in RCr 10.04 and CR 47.01, no person shall contact any member of any jury panel in the Twenty-Fourth Judicial Circuit during the time of the trial of the case. After jurors have been discharged from jury service on said case, the juror may be interviewed, examined, or questioned by any attorney or any other persons to the extent allowed by law. Contact with jurors is discouraged. Prior to any contact, each juror to be contacted should be advised of their right not to have to speak with or discuss, in any way, their service as a juror, their impressions, their beliefs, their position on, or their views concerning any aspect of any trial or proceeding in which they were involved.

RULE 3

GENERAL MOTION PRACTICE AND PROCEDURES IN CIVIL CASES

3.1 With exception of legal holidays and unless otherwise ordered by the Court, motion days shall be held as follows:

Second and fourth Fridays of each month – Lawrence County
First and third Fridays of each month; - Johnson County
First and third Thursdays of each month – Martin County
The call of the motion docket will begin at 9:00 A.M.

3.2 On such occasions where it may be required to cancel regular motion day, either because of sickness, vacation, weather, conflicts, or otherwise, notice of such cancellation, any cases docketed for hearing on the motion day so cancelled shall automatically be re-docketed for the next regular motion day, in the order in which they appeared on the cancelled docket, and before any subsequently docketed cases.

3.3 Unless otherwise directed by the Court, the following shall govern the docketing of motions: The Clerk shall keep a motion docket on which the Clerk shall docket all motions noticed for each on each motion day. All motions must be filed with the Clerk of the Court by the close of business seven days preceding the regular motion hour to be docketed for hearing on the motion hour. The Clerk shall close the docket for the next motion day at the close of business as hereinabove stated. This rule means that if a motion hour is scheduled on a Friday, all motions to be heard must be filed by 4:00 P.M. on the Thursday of the week before.

3.4 All motions must be filed and noticed for hearing only in the county where the underlying case is pending. Any exception shall be on an emergency basis only, and only by leave of the Court.

3.5 On regular motion days, cases which require hearings, will be recalled for hearing after the entire civil docket has been called or, if necessary, in the discretion of the Court, scheduled for a separate date and time for hearing.

3.6 A party seeking a judgment by default shall file a written motion for such a judgment, a copy of which shall be delivered to the party against whom the judgment is sought at his last known address at least seven days prior to the hearing date for such motion. No default judgment shall be granted except on motion day. If proper service has been made upon the parties, and the appropriate time has lapsed, no court appearance is necessary by the party seeking the default judgment.

3.7 At least once each year, as the Court may by order designate, the Clerk in each county, under the supervision of the Judge and in open Court, shall call the actions on the civil docket pending and undisposed of in which no steps or proceedings appear to have been taken within one year. Notice of all such "General Calls" of the docket shall be given at least thirty days prior to the general call, by posting a notice thereof in a conspicuous place in the Clerk's Office and by making available to all attorneys of record in each case to be called a copy of such notice. If none of the parties or their attorneys appear at the time and place set for the general call and show good cause why the action should be renoticed on the action docket, the Court may enter an order dismissing the action for want of prosecution.

3.8 A "Motion to Set for Trial", "Motion for Mediation", or similar motion filed after a "Notice to Dismiss for Lack of Prosecution" is given by the Clerk shall not constitute "good cause" to retain the action on the active docket. If, at the call, it is shown that the failure to take steps or conduct proceedings is NOT due to the Plaintiff's lack of reasonable diligence on his/her part nor otherwise the fault of Plaintiff, the action will hold its place on the docket.

3.9 The Court, upon its own motion, will set all civil actions, other than collection or foreclosure proceedings, for a status conference within a reasonable period of time after filing of the complaint and service of summons. At the status conference, the Court will set discovery deadlines, requirements for filing a witness and exhibit list, and requirements for taking of evidentiary depositions, will order mediation, and will set a trial date. Pre-trial conferences will be held as a matter of discretion of the Court, at times and places to be determined by the Court.

3.10 Motions will not be heard on the day of trial, except for extreme emergencies.

3.11 All documents to be filed with the clerk's office must bear the original signatures of all parties to the document. To illustrate, a document that is faxed

to the clerk's office is not a document that bears original signatures that can be filed with the clerk. Such a document is not to be filed by the clerk.

RULE 4

PROCEDURES IN CRIMINAL CASES

- 4.1 Regular criminal hearing days in each county of the Twenty-Fourth Judicial Circuit will be on that county's motion day as set out herein in Rule 3.
- 4.2 The criminal docket will be called at 10:00 A.M.
- 4.3 Both the Defendant and his/her attorney must be present at arraignment. If the Defendant is not represented by an attorney, the Court will, before the arraignment, appoint counsel to represent the Defendant at the arraignment. Unless specifically ordered by the Court, the attorney appearing with the Defendant for arraignment will represent the Defendant in all future stages of the proceedings. Counsel may not withdraw from representation of a Defendant in a criminal proceeding without permission of the Court for good cause shown.
- 4.4 A Pre-trial Conference shall be scheduled on each criminal case at arraignment. Pre-trials will be conducted one month after arraignment at 1:00 P.M. on motion hour days
- 4.5 After the Pre-Trial date, a final "report date" will be scheduled in each county one month after the Pre-Trial. The report date will be the deadline for entry of a guilty pleas with a recommendation by the Commonwealth to the Court. Thereafter, a guilty plea entered by a Defendant will be a "blind plea" with no recommendation and subject to sentencing by the Court.
- 4.6 The Commonwealth shall supply all Criminal Rules 6.22 and 7.24 discovery to the Defendant or Defendant's counsel at arraignment or within twenty days thereafter. Additional discovery requests shall occur by motion as set out in Rule 4.7 below.
- 4.7 Motions by either the defendant or the Commonwealth in criminal cases may be brought on for hearing on the date of arraignment.
- 4.8 Motions will not be heard on the day of trial, except for emergency matters.

RULE 5

MEDIATION

5.1 The Court may, sua sponte, or upon motion of any party, refer any civil case to mediation, except habeas corpus or election contest cases.

5.2 The Court may, by appropriate order, refer a case to mediation with or without the consent of the parties. The Court will give due regard to the representations of counsel as to the likelihood of mediation succeeding in a case.

5.3 Cases shall be referred to a Court approved mediator. Preference is given to mediators who have been awarded mediation certification and/or who have substantial experience in mediation.

5.4 Referral of a case to mediation shall not operate as a stay of the discovery process unless otherwise ordered by the Court or agreed to in writing by the parties.

5.5 The parties shall contact the mediator within ten days from the entry of the order to schedule a mediation conference.

5.6 The parties and counsel of record who will try the case for any party must attend the mediation conference.

5.7 The mediator may schedule such sessions as are necessary to complete the process, and the mediation shall continue until the parties have reached a settlement, until they are unwilling to proceed further, or until the mediator determines that further efforts would be futile.

5.8 If a party fails to appear at a duly noticed medication conference without good cause, the Court upon motion shall impose sanctions, which may include an award of attorney fees and other costs against the party failing to appear. If the party to a mediation conference is a public entity, that party shall be deemed to appear at a mediation conference by the physical presence of a representative who either has full authority to negotiate, and settle the claim on behalf of the entity, or to negotiate on behalf of the entity, and to recommend settlement to the appropriate decision-making body of the entity. In all other cases, unless stipulated by the parties, a party is deemed to appear at a mediation conference if the following persons are physically present or immediately available by phone:

- 1) The party or representative other than the party's counsel of record having full authority to settle without further consultation; or

- 2) a representative of the insurance carrier for any insured party who is not such a carrier's outside counsel, and who has full authority to settle without further consultation.

5.9 Except as otherwise provided by this rule or ordered by the Court for good cause shown, all mediation documents and mediation communications are confidential and shall not be disclosed. They are not subject to disclosure through discovery or any other process, and are not admissible into evidence in any judicial or administrative proceeding. No part of the mediation proceedings shall be considered a public record. However, there is no confidentiality and no restriction on disclosure under this rule to the extent that:

- 1) All parties consent in writing to disclosure; or
- 2) The mediation communications were made in furtherance of the commission of a crime or fraud or as part of a plan to commit a crime or fraud.
- 3) The document signed by the parties at the mediation which purports to settle the litigation between the parties, to the extent necessary to compel a party to settle under the terms of the mediation agreement.

5.10 At the conclusion of the mediation conference(s), the mediator will report to the Court in writing the fact the mediation process has ended and the results of the mediation efforts, the report to include the style of the case and the county in which the case is filed.

RULE 6

GRAND JURIES

6.1 There shall be empanelled in each county of the Circuit a grand jury. The grand jury of each county shall meet monthly at such times as may be directed by the Court.

6.2 The Chief Circuit Judge may summon for cause a special grand jury to deal with a situation requiring lengthy investigation, which cannot be handled during the term of the regular grand jury.

6.3 When a grand jury is empanelled, at least sixteen persons shall be selected to serve as grand jurors. Jurors other than the first twelve so selected, qualified, and sworn shall serve as alternate grand jurors.

6.4 Upon return of indictments, the presiding Judge shall deliver the same to the Clerk, who shall prepare arrest warrants or summons for the Defendant(s) named in each indictment and, in turn, deliver the warrants to the Judge for signature.

6.5 For purposes of case management, an indictment(s) for two or more Defendants on charges growing out of the same or similar alleged facts, shall be maintained by the Clerk in a separate file for each separate Defendant.